



IRA A. JACKSON
COMMISSIONER

The Commonwealth of Massachusetts

Department of Revenue

Lowell Saltonstall Building,

100 Cambridge Street, Boston 02204

April 28, 1983

You request a ruling whether you were eligible to file joint Massachusetts resident income tax returns in tax years 1980 and 1981. In July, 1980, (wife) became a legal resident of Massachusetts. In June, 1982, (husband) became a legal resident of Massachusetts.

A husband and wife may file a joint income tax return, provided that they were married on the last day of the taxable year and that their taxable years began on the same day and ended on the same day. (G.L. c. 62C, s. 6(a)). The taxable year is defined as either the 12-month period for which income is to be reported or, if for less than 12 months, the period of time for which the return is made. (830 CMR 62C.06(1)(c)).

A married couple may file a joint resident return only if both spouses are residents and may file a joint non-resident return only if both spouses are non-residents. Where the spouses are residents for a portion of the taxable year and non-residents for a portion of the same taxable year, a joint return may be filed provided that both spouses changed their status as residents or non-residents simultaneously. (830 CMR 62C.06(3)(a) and (b)).

Every non-resident of Massachusetts must file a non-resident income tax return if during the taxable year he or she received gross income from sources within Massachusetts either in excess of \$2,000 or in excess of the \$2,200 personal exemption prorated on a percentage basis of the Massachusetts income divided by his

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or her income from all sources. (G.L. c. 62C, s. 6(a)). Every individual who is a resident for a portion of the taxable year and a non-resident for a portion of the same taxable year and whose Massachusetts gross income exceeds \$2,000 must make separate returns as a resident and a non-resident. (G.L. c. 62C, s. 6(a)).

Based upon the foregoing, it is ruled:

1. For 1980, you were not eligible to file a joint Massachusetts resident income tax return because you were not both residents of Massachusetts.

If the wife's 1980 Massachusetts gross income exceeded \$2,000, she was required to file both resident and non-resident income tax returns for 1980.

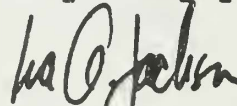
2. For 1981, you were not eligible to file a joint Massachusetts resident income tax return because you were not both residents of Massachusetts.

3. If, in 1980 or 1981, the husband received gross income from sources within Massachusetts either in excess of \$2,000 or in excess of the \$2,200 personal exemption prorated on a percentage basis of his Massachusetts income divided by his income from all sources, he was required to file a non-resident income tax return for the applicable year.

4. For 1982, you were not eligible to file a joint Massachusetts resident income tax return because your taxable years did not begin on the same day.

If the husband's 1982 Massachusetts gross income exceeded \$2,000, he was required to file both resident and non-resident income tax returns for 1982.

Very truly yours,



Commissioner of Revenue

IAJ:VGS:mf

LR 83-31